

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals  
for the Second Circuit, held at the Thurgood Marshall  
United States Courthouse, 40 Foley Square, in the City of  
New York, on the 11<sup>th</sup> day of May, two thousand eighteen.

**PRESENT:**

GUIDO CALABRESI,  
JOSÉ A. CABRANES,  
RICHARD C. WESLEY,  
*Circuit Judges.*

BI QING WANG, AKA WANG BI QING,  
*Petitioner,*

v.

JEFFERSON B. SESSIONS III,  
UNITED STATES ATTORNEY GENERAL,  
*Respondent.*

17-219  
NAC

**FOR PETITIONER:** Zhou Wang, New York, NY.

**FOR RESPONDENT:** Chad A. Readler, Acting Assistant  
Attorney General; Russell J.E.  
Verby, Senior Litigation Counsel;  
Kristin Moresi, Trial Attorney,  
Office of Immigration Litigation,

1 United States Department of  
2 Justice, Washington, DC.  
3

4 UPON DUE CONSIDERATION of this petition for review of a  
5 Board of Immigration Appeals ("BIA") decision, it is hereby  
6 ORDERED, ADJUDGED, AND DECREED that the petition for review  
7 is DENIED.

8 Petitioner Bi Qing Wang, a native and citizen of the  
9 People's Republic of China, seeks review of a January 3, 2017,  
10 decision of the BIA affirming a November 30, 2015, decision  
11 of an Immigration Judge ("IJ") denying Wang's application for  
12 asylum, withholding of removal, and relief under the  
13 Convention Against Torture ("CAT"). *In re Bi Qing Wang*, No.  
14 A205 582 728 (B.I.A. Jan. 3, 2017), *aff'g* No. A205 582 728  
15 (Immig. Ct. N.Y. City Nov. 30, 2015). We assume the parties'  
16 familiarity with the underlying facts and procedural history  
17 in this case.

18 Under the circumstances of this case, we have reviewed  
19 the IJ's decision as supplemented by the BIA. *Wala v.*  
20 *Mukasey*, 511 F.3d 102, 105 (2d Cir. 2007). The standards of  
21 review are well established. See 8 U.S.C. § 1252(b)(4)(B);  
22 *Xiu Xia Lin v. Mukasey*, 534 F.3d 162, 165-66 (2d Cir. 2008).

1 Pursuant to the REAL ID Act of 2005, the agency may,  
2 "[c]onsidering the totality of the circumstances," base an  
3 adverse credibility ruling on an applicant's "demeanor,  
4 candor, or responsiveness," any inconsistencies in an  
5 applicant's oral and written statements or other record  
6 evidence "without regard to whether an inconsistency,  
7 inaccuracy, or falsehood goes to the heart of the applicant's  
8 claim," and "any other relevant factor." 8 U.S.C.  
9 § 1158(b)(1)(B)(iii). "We defer . . . to an IJ's credibility  
10 determination unless . . . it is plain that no reasonable  
11 fact-finder could make such an adverse credibility ruling."  
12 *Xiu Xia Lin*, 534 F.3d at 167.

13 Contrary to Wang's position, which relies on pre-REAL ID  
14 Act standards, the agency may rely on "any inconsistency or  
15 omission in making an adverse credibility determination as  
16 long as the 'totality of the circumstances' establishes that  
17 an asylum applicant is not credible." *Xiu Xia Lin*, 534 F.3d  
18 at 167 (quoting 8 U.S.C. § 1158(b)(1)(B)(iii)). Under this  
19 standard, the agency reasonably relied on an inconsistency  
20 regarding the date Wang's mother was notified of Wang's  
21 arrest. 8 U.S.C. § 1158(b)(1)(B)(iii). A letter from Wang's

1 mother stated that the police called her the day Wang was  
2 arrested, but Wang testified that the police did not contact  
3 her mother until two weeks after her arrest, to request that  
4 she pay Wang's bail.

5 Wang does not challenge the remaining bases for the  
6 adverse credibility ruling, which are also supported by the  
7 record. Wang confirmed multiple times that she was not in  
8 China when the police visited her mother and questioned her  
9 about Wang's whereabouts on October 6, 2012. However, she  
10 was unable to give her location and later testified that she  
11 was in Fuzhou City (in her home province of Fujian) on October  
12 6 and did not leave China until October 10. Wang's  
13 explanation that she meant to state that she had left her  
14 hometown on October 6 is not compelling, given that she stated  
15 unequivocally that she was "not in China" and confirmed this  
16 answer several times. See *Majidi v. Gonzales*, 430 F.3d 77,  
17 80 (2d Cir. 2005) ("A petitioner must do more than offer a  
18 plausible explanation for his inconsistent statements to  
19 secure relief; he must demonstrate that a reasonable fact-  
20 finder would be *compelled* to credit his testimony."  
21 (quotation marks omitted)). The agency also cited Wang's

1 testimony about her location on October 6 as one example of  
2 her lack of responsiveness, which was a frequent problem  
3 throughout the hearing. 8 U.S.C. § 1158(b)(1)(B)(iii)  
4 (agency may rely on applicant's "demeanor, candor, or  
5 responsiveness" in deciding credibility).

6 Wang also gave conflicting testimony regarding her U.S.  
7 church attendance. She testified that she attended church  
8 once per week, but the letter from her church confirmed  
9 attendance only half as often. The IJ was not required to  
10 credit Wang's explanation that she sometimes missed church  
11 because it did not account for the significant difference.  
12 *Majidi*, 430 F.3d at 80.

13 The above inconsistencies and Wang's frequently non-  
14 responsive testimony provide substantial evidence for the  
15 adverse credibility determination. 8 U.S.C.  
16 § 1158(b)(1)(B)(iii); *Xiu Xia Lin*, 534 F.3d at 167. Because  
17 Wang's asylum, withholding of removal, and CAT claims were  
18 all based on the same factual predicate, the adverse  
19 credibility ruling is dispositive. *Paul v. Gonzales*, 444  
20 F.3d 148, 156-57 (2d Cir. 2006).

1       For the foregoing reasons, the petition for review is  
2 DENIED. As we have completed our review, any stay of removal  
3 that the Court previously granted in this petition is VACATED,  
4 and any pending motion for a stay of removal in this petition  
5 is DISMISSED as moot. Any pending request for oral argument  
6 in this petition is DENIED in accordance with Federal Rule of  
7 Appellate Procedure 34(a)(2), and Second Circuit Local Rule  
8 34.1(b).

9  
10                   FOR THE COURT:

11                   Catherine O'Hagan Wolfe, Clerk of Court  
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